

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

LAKQUAN D. SOLOMON,

Petitioner,

v.

PATRICK COVELLO,

Respondent.

No. 2:24-CV-0924-TLN-DMC-P

ORDER

Petitioner, a prisoner proceeding pro se, brings this petition for a writ of habeas corpus under 28 U.S.C. § 2254. Pending before the Court are: (1) Respondent's unopposed motion to dismiss, ECF No. 16; and (2) Petitioner's request for voluntary dismissal of Ground Two, ECF No. 18.

In the pending motion to dismiss, Respondent argues that the operative first amended petition contains one exhausted claim (Ground One) and one unexhausted claim (Ground Two). According to Respondent, Petitioner must either dismiss Ground Two and proceed on the exhausted claim, or the entire petition must be dismissed. Petitioner responded by way of a request to voluntarily dismiss Ground Two as unexhausted. Because no answer or motion for summary judgment has been filed, leave of Court is not required and Ground Two will be dismissed on Petitioner's notice. See Fed. R. Civ. P. 41(a)(1)(A)(i). The dismissal of Ground Two renders Respondent's motion to dismiss moot.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Petitioner's request for voluntary dismissal of Ground Two, ECF No. 18, is GRANTED.
2. Ground Two is DISMISSED and this action proceeds on the first amended petition as to Ground One only.
3. Given that Petitioner has offered the relief Respondent seeks, Respondent's motion to dismiss is MOOT.
4. The Clerk of the Court is directed to terminate ECF No. 16 as a pending motion.
5. Respondent shall file an answer to the first amended petition within 30 days of the date of this order.

Dated: September 19, 2024



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE